United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Amy J. St. Eve	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	09 C 4914	**DATE**	12/17/2010
CASE TITLE	Daniel et al vs. City of Chicago		

DOCKET ENTRY TEXT

The Court denies without prejudice Plaintiffs' motion in limine #1 [88].

■[For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

    In their motion in limine #1 (R. 88), Plaintiffs seek to bar evidence of D.D. and D.D. Jr.'s juvenile arrests. D.D. and D.D. Jr. are both minors. According to Plaintiffs, although D.D. and D.D. Jr. have been arrested several times as juveniles, none of those arrests led to convictions. Plaintiffs argue that the minors' prior arrests are not relevant to any issue that will be decided at trial, and furthermore, that their introduction at trial would be (1) unfairly prejudicial under Rule 403, and (2) impermissible propensity evidence under Rule 404(b). Defendants' response – that "without hearing the evidence in its proper context, it is likely that the Court will not be able to determine whether the evidence should be excluded," *see* R. 97, Defs.' Resps. to Pls.' Mots. in Limine, at 2 – is unhelpful.

    Although arrests that have not led to convictions are "classic candidates for exclusion" under Rule 404(b), *see Anderson v. City of Chicago*, No. 09 C 2311, 2010 WL 4928875, at *1 (N.D. Ill. Nov. 30, 2010) (citation omitted), arrests are not automatically excluded. The Court thus denies without prejudice Plaintiffs' motion as it applies to D.D. and D.D. Jr.'s juvenile arrests. If Defendants determine that they wish to introduce any evidence of – or cross examine these parties on – their prior arrests, they must first advise the Court out of the presence of the jury so that the Court may rule on the admissibility of the evidence or the propriety of the cross-examination.

	Courtroom Deputy Initials:	KF